



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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CONWAY EDUCATION ASSOCIATION/ NEA-NEW HAMPSHIRE	:	
	:	
Complainant	:	CASE NO. T-0221:6
	:	
v.	:	DECISION NO. 88-66
	:	
CONWAY SCHOOL DISTRICT	:	
	:	
Respondent	:	

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#### APPEARANCES

##### Representing the Conway Education Association:

James Allmendinger, Esq., Counsel, NEA-NH  
Wally Cumings, UniServ Director, Region I, NEA-NH

##### Representing the Conway School District:

James Burke, Esq., Counsel  
Karen Hennigan, Esq.

#### BACKGROUND

The Conway Education Association (Association) on June 13, 1987 filed unfair labor practice charges against the Conway School District (District) alleging a violation of RSA 273-A:5, 1, (a), (e), and (g), by reneging on its commitment to schedule a special meeting of the District voters; said commitment arose out of contract negotiations.

The Association seeks as remedy, (1) a finding of unfair labor practice against the District; (2) an order to the District to cease and desist any further delays in scheduling of special district meetings; and, (3) and order to cease and desist from seeking budget committee approval for the submission of the factfinder's report to the special school district meeting.

Hearing in this matter was held in the PELRB office on May 12, 1988 after several postponements.

The Association's position that delaying a special school district meeting until July 21, 1987, when the voting lists were swelled by summer residents and retirees not interested in the year round operation of the schools, caused a hardening of the negotiating parties' positions.

Representative Cumings for the Association testified regarding the contract's reopener clause for consideration of economic issues, a result of the factfinder's report which was accepted by the Association but rejected by the School Board on May 8, 1987.

Agreement had been reached by the parties that a special meeting of the voters needed to be called to resolve the outstanding issues by submission of the factfinder's report in accordance with RSA 273-A:12, III. An expedited report was requested to enable the parties to present the report to the voters prior to end of school and influx of summer residents.

Association representative also testified that prior summer meetings had failed to support teacher positions; that the parties desired the earliest possible dates for requesting Superior Court approval for a special meeting after May 16, 1987; and that the School Board had filed its petition with the Superior Court, petition was granted and meeting held July 21, 1987 at which time the factfinder's report was approved by the voters.

Counsel for the District, Attorney Burke, testified, as a witness in the absence of the Superintendent who was ill, that he had advised the District to proceed through the Budget Committee which could not be bypassed and that the Committee required a public hearing on the economic part of the factfinder's report. This procedure caused the delay in the process.

Counsel Burke referenced the Superior Court decision, Gorham School Board and Gorham Teachers Association v. Town of Gorham Budget Committee, COOS, SS, #E-83-46 1983) which he interprets to say that the Budget Committee has a function which cannot be bypassed and that the process of the special school district meeting was handled as expeditiously as possible and the petition to the Superior Court could not have been filed prior to Budget Committee action.

The Association is of the opinion that the request to the Court should have been initiated immediately upon learning the monetary issues addressed in the factfinder's report.

#### FINDINGS OF FACT

- (1) PELRB does not interpret the Gorham decision to mean that the Budget Committee of a town can be bypassed, but rather that the exact recommendations of the factfinder MUST be submitted to the voters in accordance with RSA 273-A:12, III.
- (2) The parties did not agree on any specific timetable of action with respect to the Factfinder's report.
- (3) Past practice of disposition of the factfinder's report was not clearly defined.
- (4) The atmosphere for negotiations between the Conway School District and the Association are much improved.
- (5) The parties mutually agreed to the expeditious handling of any future factfinder's report.

ASSOCIATION'S REQUEST FOR FINDINGS:

#1,2,3 Granted.

#4 Granted in part. Denied in part. No PELRB finding.

#5,6,7,8 Granted.

#9 Denied. See Board's findings.

#10 Denied.

#11 Granted in part. Denied in part. A matter of intpretation of request process.

#12 Granted

#13 Denied.

#14 Denied. A matter of intpretation of any evidence of specific occurances.

#15,16,17 Granted.

#18 Denied.

#19 Denied. Board entitled to all information possible.

#20 Denied. Unclear.

#21 Denied. Board can consider any evidence it wants to hear.

#22,23,24,25 Denied.

#26 Denied. See PELRB findings.

ORDER

PELRB declines to find an Unfair Labor Practice against the Conway School Board and accordingly denies the Association's requests.

Signed this 30th day of August, 1988.

  
EDWARD J. HASELTINE  
Chairman

Chairman Edward J. Haseltine presiding. Members Seymour Osman, Richard E. Molan, Esq. and James C. Anderson present and voting. Also present, Executive Director, Evelyn C. LeBrun.